

116TH CONGRESS  
1ST SESSION

# S. 1778

To provide appropriate information to Federal law enforcement and intelligence agencies, pursuant to investigating terrorism, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 11, 2019

Mr. RUBIO introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide appropriate information to Federal law enforcement and intelligence agencies, pursuant to investigating terrorism, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Terror Intelligence Im-  
5 provement Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) On June 12, 2016, the deadliest terrorist  
9 attack on our homeland since September 11, 2001,

1 occurred at the Pulse Bar and Club in downtown  
2 Orlando, Florida. The Orlando Police Department  
3 shortly after the incident reported 49 fatalities and  
4 53 injured.

5 (2) On June 13, 2016, the Washington Post re-  
6 ported that the Federal Bureau of Investigation in-  
7 vestigated the Orlando shooter for 10 months begin-  
8 ning in 2013, putting him under surveillance, re-  
9 cording his calls, and using confidential informants  
10 to gauge whether he had been radicalized after he  
11 talked at work about his connections with al-Qaeda  
12 and dying as a martyr.

13 (3) On June 13, 2016, the Federal Bureau of  
14 Investigation remarked that the suspect had made  
15 clear his affinity, at the time of the attack, for the  
16 Islamic State of Iraq and Syria (commonly known as  
17 “ISIS”), and generally, leading up to the attack, for  
18 radical Islamist groups.

19 (4) On June 12, 2016, the Bureau of Alcohol,  
20 Tobacco, Firearms, and Explosives announced it had  
21 completed a trace of the firearms used in the shoot-  
22 ing and determined both were purchased legally.

23 **SEC. 3. DEFINITIONS.**

24 In this Act:

1           (1) CRITICAL INFRASTRUCTURE.—The term  
2           “critical infrastructure” has the meaning given the  
3           term in section 1016(e) of the Uniting and  
4           Strengthening America by Providing Appropriate  
5           Tools Required to Intercept and Obstruct Terrorism  
6           (USA PATRIOT ACT) Act of 2001 (42 U.S.C.  
7           5195c(e)).

8           (2) EXPLOSIVE.—The term “explosive” has the  
9           meaning given the term “explosives” in section  
10          841(d) of title 18, United States Code.

11          (3) FEDERAL DEPARTMENT OR AGENCY.—The  
12          term “Federal department or agency” means—

13               (A) an Executive agency, as defined in sec-  
14               tion 105 of title 5, United States Code; and

15               (B) the United States Postal Service.

16          (4) FIREARM.—The term “firearm” has the  
17          meaning given the term in section 921 of title 18,  
18          United States Code.

19          (5) JTTF.—The term “JTTF” means the  
20          Joint Terrorism Task Forces established by the  
21          Federal Bureau of Investigation.

22          (6) KEY RESOURCES.—The term “key re-  
23          sources” has the meaning given the term in section  
24          2 of the Homeland Security Act of 2002 (6 U.S.C.  
25          101).

1           (7) **TERRORISM.**—The term “terrorism” in-  
2       cludes international terrorism and domestic ter-  
3       rorism, as those terms are defined in section 2331  
4       of title 18, United States Code.

5 **SEC. 4. CONSOLIDATION AND NOTIFICATION OF TER-**  
6 **RORISM INVESTIGATION INFORMATION.**

7       (a) **CONSOLIDATION OF TERRORISM INVESTIGATION**  
8 **INFORMATION.**—

9           (1) **IN GENERAL.**—Not later than 90 days after  
10      the date of enactment of this Act and on an ongoing  
11      basis thereafter, the head of each Federal depart-  
12      ment or agency shall, to the extent permitted by law,  
13      provide to the Director of the Federal Bureau of In-  
14      vestigation any information in the possession, cus-  
15      tody, or control of the Federal department or agency  
16      relating to any person who is, or has been, under a  
17      terrorism investigation.

18          (2) **REQUIREMENT.**—The Director of the Fed-  
19      eral Bureau of Investigation shall—

20           (A) implement appropriate procedures and  
21      safeguards with respect to all information pro-  
22      vided under paragraph (1); and

23           (B) identify, prioritize, and coordinate the  
24      protection of critical infrastructure and key re-  
25      sources in order to prevent, deter, and mitigate

1 the effects of deliberate efforts to destroy, inca-  
2 pacitate, or exploit such infrastructure and re-  
3 sources.

4 (b) NOTIFICATION OF TERRORISM INVESTIGATION  
5 INFORMATION TO APPROPRIATE LAW ENFORCEMENT EN-  
6 TITIES.—The Attorney General shall ensure that the na-  
7 tional instant criminal background check system estab-  
8 lished under section 103 of the Brady Handgun Violence  
9 Prevention Act (34 U.S.C. 40901) immediately notifies  
10 the Director of the Federal Bureau of Investigation and  
11 the JTTF of any request to transfer a firearm or explosive  
12 to a person who is, or within the previous 10 years was,  
13 the subject of a terrorism investigation by any Federal de-  
14 partment or agency.

15 (c) AUDIT.—

16 (1) IN GENERAL.—Not earlier than 180 days  
17 after the date of enactment of this Act and not later  
18 than 1 year after the date of enactment of this Act,  
19 the Inspector General of the Intelligence Community  
20 shall initiate an audit of all of the terrorism-related  
21 screening and watch list procedures of the Federal  
22 Government in order to identify any problems or in-  
23 efficiencies in the nomination and redress procedures  
24 pertaining to the maintenance of terrorism watch  
25 list records.

1           (2) REPORT.—Not later than 2 years after the  
2           date of enactment of this Act, the Inspector General  
3           of the Intelligence Community shall submit a report  
4           to the Select Committee on Intelligence of the Sen-  
5           ate and the Permanent Select Committee on Intel-  
6           ligence of the House of Representatives on the find-  
7           ings of the audit conducted under paragraph (1),  
8           which shall include recommendations, if any, for im-  
9           proving the nomination or redress procedures de-  
10          scribed in paragraph (1).

11          (3) FORM OF REPORT.—The report required to  
12          be submitted under paragraph (2) shall be submitted  
13          in unclassified form, but may include a classified  
14          annex.

15 **SEC. 5. ATTORNEY GENERAL AUTHORITY TO DELAY FIRE-**  
16 **ARMS TRANSFER TO SUSPECTED TERROR-**  
17 **ISTS.**

18          (a) ESTABLISHMENT OF PROCESS.—

19           (1) IN GENERAL.—Not later than 90 days after  
20           the date of enactment of this Act, the Attorney Gen-  
21           eral shall establish a process under which, for any  
22           person who is, or within the previous 10 years was,  
23           the subject of a terrorism investigation by any Fed-  
24           eral department or agency, the Attorney General  
25           may—

(A) delay the transfer of a firearm or explosive to the person for a period not to exceed 10 business days; and

(B) file an emergency petition in a court of competent jurisdiction to prevent the transfer of the firearm or explosive.

(2) HEARING.—

(A) PRIORITY; APPLICABLE LAWS.—An emergency petition filed under paragraph (1)(B) and the subsequent hearing shall—

(i) receive the highest possible priority on the docket of the court of competent jurisdiction; and

(ii) be subject to the Classified Information Procedures Act (18 U.S.C. App.).

(B) NOTICE; COUNSEL.—A court shall ensure that a person for whom an emergency petition is filed under paragraph (1)(B)—

(i) receives actual notice of the hearing; and

(ii) is provided with an opportunity to participate with counsel in the hearing.

(C) GRANT OF PETITION.—A court shall grant an emergency petition filed under paragraph (1)(B) if the court finds that there is

1           probable cause to believe that the person is en-  
2           gaged, or has been engaged, in conduct consti-  
3           tuting, in preparation of, in aid of, or relating  
4           to terrorism, or providing material support or  
5           resources therefor.

6                   (D) COSTS AND FEES.—If an emergency  
7           petition filed under paragraph (1)(B) is denied,  
8           the Government shall be responsible for all rea-  
9           sonable costs and attorneys' fees.

10           (3) ARREST AUTHORITY.—The Attorney Gen-  
11          eral may arrest and detain a person for whom an  
12          emergency petition has been filed under paragraph  
13          (1)(B) where probable cause exists to believe that  
14          the person is engaged, or has been engaged, in con-  
15          duct constituting, in preparation of, in aid of, or re-  
16          lating to terrorism, or providing material support or  
17          resources therefor.

18          (b) REPORT.—Not later than 60 days after the date  
19          of enactment of this Act, and quarterly thereafter, the At-  
20          torney General shall submit to the Committee on the Judi-  
21          ciary of the Senate and the Committee on the Judiciary  
22          of the House of Representatives a report providing, for  
23          the reporting period—

24                   (1) the number of emergency petitions filed  
25                  under subsection (a);



1           (2) the number of individuals to whom the  
2           transfer of a firearm or explosive was prevented  
3           under an order granting an emergency petition filed  
4           under subsection (a); and

5           (3) the number of instances in which a court  
6           denied an emergency petition filed under subsection  
7           (a).

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